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FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: (775) 687-1279; (702) 486-7252

To: Patricia Cafferata, Esq., Executive Director
Michel Vavra, M.P.A.
Of: Nevada Commission on Ethics
From: Judy M. Sheldrew, Esq.
Client/Matter: Response to Opinion Request No. 08-57C
Date: October 27, 2008

DOCUMENTS	NUMBER OF PAGES*
Response this date	11
Exhibits	13

COMMENTS: Originals will follow.

Dear Ms. Cafferata and Mr. Vavra:

Enclosed is Bob Loux's Response to Opinion Request No. 08-57C and accompanying exhibits. We will fax the Response first followed by the Exhibits.

Judy M. Sheldrew, Tom Perkins

* NOT COUNTING COVER SHEET.
IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE US IMMEDIATELY AT (775) 782-7933.

STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of
The Request for Opinion Concerning
The Conduct of BOB LOUX,
Executive Director,
Office of Nuclear Projects,
State of Nevada,

Request for Opinion No. 08-57C

Subject.

RESPONSE

Bob Loux, the subject of this action, by his attorneys, Judy M. Sheldrew and Thomas E. Perkins, sets forth the following in opposition and response to the Complaint and Request for Opinion:

Summary:

Mr. Loux denies that he intentionally or unethically used his position to gain unwarranted advantages for himself or his staff, and denies that he improperly used a staff person to gain unwarranted advantages for himself. He has acted at all times within his authority and responsibility. He takes complete responsibility for mistakes that were made, but denies the allegation of improper or unethical conduct. The salary schedules released by the Governor's office, and relied upon by the complainant, are inaccurate and do not show the actual salaries of the employees at the Agency for Nuclear Projects. Accurate information is attached to this response.

Procedural Background:

This action was initiated by a Request for Opinion made by Heidi S. Gansert on September 11, 2008. Ms. Gansert, a member of the Nevada Assembly, alleged in her statement that Mr. Loux used his position to grant unwarranted privileges to himself, by increasing his salary, in contravention of NRS 281A.400, during the 2007-2008 fiscal year. On October 14, 2008, the Executive Director of the Nevada Commission on Ethics filed a Notice of Additional Issues and Facts, which was amended on October 15, 2008 by the filing of the Amended Notice of Additional Issues and Facts. The Amended Notice charges that Mr. Loux approved an unauthorized salary raise for himself in 2006, in violation of NRS 281A.400, Section 2, that he approved unauthorized salary raises for the employees in the office in 2006, under the same statute, and that he used his position to benefit his financial interest by using a subordinate to secure salary raises for himself in 2006, 2007 and 2008, in violation of NRS 281A.400, Section 9.

This response disputes the ethical violations alleged in the original request and in the Amended Notice.

History:

Bob Loux has a distinguished and unblemished career in public service to the State of Nevada for more than thirty years. He graduated from Boulder City High School and the University of Nevada, Reno, and went to work for the State in 1976. He and his wife, Donny, also a retired public servant, live in Dayton, Nevada, where they have raised her children and three grandchildren. Mr. Loux began his career in the State Department of Energy 1976. He has led the efforts

on behalf of the citizens of Nevada since the Federal government identified Nevada as a potential site for the storage of high level nuclear waste; under contract during the List administration, pursuant to Executive Order under Governors List and Bryan, and as director of the Nuclear Projects agency since it was formed by statute in 1985, having served under Governors List, Bryan, Miller, Guinn and Gibbons.

In 1999, the Guinn administration pushed for the enactment of Assembly Bill 660. AB 660 created a new class of state employee called "non-classified" employees. Non-classified employees differed from the existing classes of state employees, which included classified employees (who are in the merit-based system) and unclassified employees, whose salaries are capped by the Legislature. The purpose in creating a non-classified service was to give the Governor the flexibility to adjust the salaries of his staff as needed so long as he could do so within the limits of available money (*Exhibit 1, Legislative History*). AB 660, which was codified as NRS 223.085, included the staff of the Office of Nuclear Projects, which was part of the Governor's office. As a result of this legislation, there are no legislatively approved salary levels for individual employees within the non-classified service, including the Agency for Nuclear Projects. AB 660 also required that the Governor adopt rules and policies for employees in the non-classified service. With respect to salary increases for non-classified employees, the Guinn administration established two guidelines; salaries were to stay within the available budget, and no staff person's salary was to exceed that set for the Governor himself. The changes in salaries paid to Mr. Loux and the staff of the Agency for Nuclear Projects during all periods in

question in this proceeding were all made on standard state personnel action forms, initiated by the agency, approved by State Personnel. Information on the salaries actually paid was available to the Budget office and presumably used by it in development of the Executive Budget. None of these actions were concealed in any way.

For unknown reasons, the 2005 Executive Budget failed to include the actual salaries being paid to the employees of the Agency for Nuclear Projects. As a result, the salary category was under-budgeted for each year of the biennium that followed, fiscal years 2006 and 2007. In addition, the salary category was not adjusted to reflect all of the legislatively approved cost of living increases (COLA), which exacerbated the shortfall. The shortfall in the salary category for both years was made up primarily from grant funds from the Western Governors' Association through a combination of journal voucher transfers or work program revisions, which were prepared by the agency accountant, Trudy Stanford, and were known by and approved by the Budget Office prior to the close of the books in each fiscal year. The only salary increases made in fiscal year 2006 and fiscal year 2007, charged against Mr. Loux as unauthorized pay increases for the agency staff, were the legislatively approved COLA's.

The 2007 Executive Budget also failed to reflect the actual salaries in the Agency for Nuclear Projects, including the previously approved COLA's. Other errors were also made during finalization of the budget, which resulted in the salary category totals in fiscal year 2008 and fiscal year 2009 actually being less than had been budgeted in either of the two previous fiscal years and they were even less than was actually spent for salaries as far back as in fiscal year 2005.

Exhibit 2, attached, is a summary prepared by Jennifer Byers, a retired State of Nevada accountant now attached to the Agency under contract with Kelly Services, from budget documents and the personnel action forms. It demonstrates a number of things.

First, it shows that the overall salary categories approved by the Legislature, based upon information submitted by the Department of Administration for fiscal years 2006, 2007 and 2008 did not reflect accurate information regarding the actual salary expenditures for the agency. As a consequence, the funds budgeted for salaries for the following biennium were not adequate to pay existing salaries with the legislatively approved cost of living increases or other adjustments.

Second, it shows that expenditures in the salary categories, as a result, exceeded the amounts budgeted for salaries. The Agency for Nuclear Projects compensated for the shortfall in each fiscal year by using a combination of journal vouchers and work programs, all of which were submitted to or known by the Budget Office, to remedy the chronic salary category shortfalls. The transfers came, primarily, from grant funds made available to the Agency for Nuclear Projects by the Western Governors' Association. The use of Western Governors' Association grant funds for staff salaries was a lawful and appropriate use of these federal, pass through, funds. It was only in this manner, because of the budgeted shortfall, that the Agency staff could be paid what it earned.

Third, the summary, having been prepared from and reconciled to State accounting database information, demonstrates that the spreadsheet disseminated by the Department of Administration, and relied upon by both the

complainant and Commission staff, is inaccurate in that it overstates the funds paid to Mr. Loux and other agency staff, and assumes that the Legislature set salary levels for individual employees (*Exhibit 3*).

The redistribution of salary savings made by the agency during the 2007-2008 fiscal year resulted from a set of misunderstandings. First, Mr. Loux believed that it was within his authority to redistribute salary these funds generated from a vacant position, carrying forward his understanding of "non-classified" staff from his experience with the previous administration. His understanding was that the agency staff salaries could be increased so long as within available funds, and, as is seen in Exhibit 2, none of the resulting salaries would have exceeded the Governor's salary. The second misunderstanding occurred because the staff accountant, Ms. Stanford, apparently did not realize that the legislatively approved salary category was initially under-funded. She also assumed, erroneously, that when she requested salary adjustment funds from the Budget Office in April of 2008, she would receive additional expenditure authority in her salary category. Finally, there was a total lack of communication with the Governor's staff or the Budget Office regarding the salary schedule within the agency or the impending shortfall until after fiscal year was closed, despite the fact that the status of the salary category was known to the Budget Office long before then. When it became apparent that there would be a shortfall in the salary category, the agency proposed work program revisions to move a combination of Western Governors' Association grant funding and savings from other categories and sent it to the Budget Office and the Interim Finance

Committee. The Agency budget was not exceeded, and there was no attempt to conceal anything.

Finally, the Amended Notice charges that Mr. Loux used an employee of the Agency, Cathy Sack, to secure an unwarranted benefit for himself. Ms. Sack, who functions as the administrative assistant, performed ministerial acts in the collection and filing of personnel forms associated with staff pay in the agency. The forms were initiated by the staff accountant, Trudy Stanford, and generated by Payroll Services, an agency of the Controller's office. There is no suggestion in the moving papers or the records that Mr. Loux directed her to do anything outside her normal ministerial functions.

Analysis:

There were errors in Department of Administration handling of the Agency budget and errors in the accounting within the Agency. There was an error made by the Administration in its summary of the staff salaries, which made the situation look far worse than it really was. No combination of these errors, however, would support a finding of unethical conduct.

NRS 281A.400, Section 2, provides:

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281A.420.

(b) "Unwarranted" means without justification or adequate reason.

Both the initial complaint and the Amended Notice rely on a misunderstanding of the status of Agency staff as "non-classified" personnel. Although we may wish that the Administration had adopted a salary schedule or a textured policy for determining staff pay within the Agency, it did not, and Mr. Loux acted at all times within the authority delegated to him and the limits of available money. Accordingly, the actions taken were not unwarranted in the meaning of the statute. There were no expenditures made in excess of the agency budget or not otherwise allowed by law. *NRS 353.260*. In fact, changes made to the categories within the Agency budget were approved in the budget closing process for each fiscal year.

The situation is analogous to the actions taken by the Mountain City Justice of Peace, who kept funds received in his official capacity in a separate account set up for that purpose, although he was required by law to deposit them with the County Treasurer. In reversing his conviction, the Nevada Supreme Court distinguished between "willful" acts, done intentionally, designedly or deliberately, and other acts done accidentally, inadvertently or innocently. *Robey v. State*, 96 Nev. 459 (1980). In a similar manner, Chapter 281A defines "willful violation" to mean the public officer or employee knew or reasonably should have known that his conduct violated this chapter. *NRS 281A.170*. The historical approval of the actions taken by the Agency to balance the salary category in its budget over a period of many years combines with the total lack of any evidence of concealment or fraud to contradict any suggestion of an unwarranted benefit or ethical lapse.

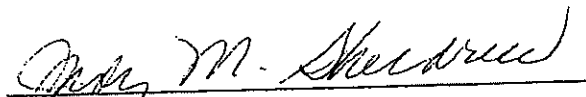
That actions taken by Mr. Loux to pay himself and his staff within the Agency budget are in sharp contrast to the kinds of unwarranted personal benefits condemned by this Commission; see *In the Matter of Bowles*, CEO 96-49, where a County Treasurer secured free lodging from a local motel, falsified travel claims on behalf of others, and kept the money for himself, and *In the Matter of Keene*, CEO 00-11, where an executive officer of a public agency used an agency credit card for thousands of dollars in personal expenses.

Conclusion:

The requests for opinion made in the initial complaint and the Amended Notice are founded on a misunderstanding of the status of the employees of the Agency, including Mr. Loux, and inaccurate information on the salaries actually paid. The actions taken were within his authority and responsibility, and warranted under the law. There is no cause to order a full hearing on the matter and the requests for opinion should be denied.

Date: *Oct 27, 2005*

JUDY M. SHELDREW
THOMAS E. PERKINS
Attorneys for Bob Loux



by Judy M. Sheldrew
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Date: *October 27, 2008*

Thomas E. Perkins

by Thomas E. Perkins
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CERTIFICATE OF SERVICE

I certify that I am employed by the Law Office of Karen L. Winters, and that I caused the original of the foregoing Response, and attached Exhibits, to be filed with the Nevada Commission on Ethics by depositing the same with Reno-Carson Messenger Service, with instructions to deliver the same to Nevada Commission on Ethics, attn. Patricia D. Cafferata, Executive Director, 3476 Executive Pointe Way, Suite 10, Carson City, Nevada 89706, on the 27th day of October, 2008.

A handwritten signature in dark ink, appearing to be "K. Winters", is written over a horizontal line.

Assembly Bill No. 660—Committee on Ways and Means

CHAPTER.....

AN ACT relating to the office of the governor; removing the employees of the office of the governor from the classified and unclassified service of the state; requiring the governor to adopt certain rules and policies and determine the salaries and benefits of the employees of the office of the governor; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 223.085 is hereby amended to read as follows:
223.085 ~~{Except as otherwise provided in NRS 284.143, employees in the governor's office in the unclassified service of the state shall devote their entire time and attention to the business of their offices and shall not pursue any other businesses or occupations or hold any other offices of profit.}~~

1. The governor may, within the limits of available money, employ such persons as he deems necessary to provide an appropriate staff for the office of the governor, including, without limitation, the agency for nuclear projects and the governor's mansion. Any such employees are not in the classified or unclassified service of the state and serve at the pleasure of the governor.

2. The governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

Sec. 2. NRS 284.140 is hereby amended to read as follows:

284.140 The unclassified service of the state consists of positions held by state officers or employees in the executive department of the state government as follows:

1. Persons chosen by election or appointment to fill an elective office.
2. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.
3. At the discretion of the elective officer or head of each department, agency or institution, one deputy and one chief assistant in each department, agency or institution.

4. ~~{All employees in the office of the governor and all}~~ *Except as otherwise provided in NRS 223.085, all* persons required by law to be appointed by the governor or heads of departments or agencies appointed by the governor or by boards.

-2

5. All employees other than clerical in the office of the attorney general and the state public defender required by law to be appointed by the attorney general or the state public defender.

6. Except as otherwise provided by the board of regents of the University of Nevada pursuant to NRS 396.251, officers and members of the teaching staff and the staffs of the agricultural extension department and experiment station of the University and Community College System of Nevada, or any other state institution of learning, and student employees of these institutions. Custodial, clerical or maintenance employees of these institutions are in the classified service. The board of regents of the University of Nevada shall assist the director in carrying out the provisions of this chapter applicable to the University and Community College System of Nevada.

7. Officers and members of the Nevada National Guard.

8. Persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or another competent authority.

9. Patient and inmate help in state charitable, penal, mental and correctional institutions.

10. Part-time professional personnel who are paid for any form of medical, nursing or other professional service and who are not engaged in the performance of administrative or substantially recurring duties.

11. All other officers and employees authorized by law to be employed in the unclassified service.

Sec. 3. The provisions of subsection 1 of section 1 of chapter 562, Statutes of Nevada 1997, at page 2728, do not apply to any persons employed by the governor pursuant to section 1 of this act.

Sec. 4. This act becomes effective upon passage and approval.

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NRS: CHAPTER 223 - GOVERNOR

1. The Governor shall be elected by the qualified electors of the State.
2. The Governor shall be chosen at the general election of 1866, and every 4th year thereafter, and shall hold his office for the term of 4 years from the time of his installment and until his successor shall be qualified.
[Part 1:108:1866; B § 2599; BH § 1636; C § 1782; RL § 2765; NCL § 4765] + [Part 9:108:1866; B § 2607; BH § 1644; C § 1790; RL § 2773; NCL § 4773] + [Part 10:108:1866; B § 2608; BH § 1645; C § 1791; RL § 2774; NCL § 4774]

NRS 223.025 Governor-elect: Payment of expenses for clerical and research assistance.

1. The Department of Administration shall include as a separate item in its budget for each fiscal year in which a Governor is to be elected a reasonable amount to pay transitional expenses of the Governor-elect for clerical and research assistance.
2. The State Controller shall, within the limits of legislative appropriation, draw his warrant for the payment of necessary expenses for clerical and research assistance for the Governor-elect upon submission of one or more claims by the Governor-elect.
3. The provisions of subsection 2 do not apply if the incumbent Governor is elected to succeed himself.
(Added to NRS by 1969, 111; A 1973, 263; 2001, 949)

NRS 223.030 Oath. The Governor shall take and subscribe to the official oath before the Chief Justice or one of the associate justices of the Supreme Court on the 1st Monday of January next succeeding his election.
[Part 25:108:1866; A 1881, 22; BH § 1660; C § 1806; RL § 2789; NCL § 4789]

NRS 223.040 Office and residence. The Governor shall keep his office and reside at the seat of government.
[Part 10:108:1866; B § 2608; BH § 1645; C § 1791; RL § 2774; NCL § 4774]

NRS 223.050 Salary.

1. Until the first Monday in January 2007, the Governor is entitled to receive an annual salary of \$117,000. From the first Monday in January 2007, until the first Monday in January 2011, the Governor is entitled to receive an annual salary of \$141,000.
2. On the first Monday in January 2011 and on the first Monday of every fourth year thereafter, the salary of the Governor must be increased by an amount equal to the cumulative percentage increase in the salaries of the classified employees of this State during the immediately preceding term of the Governor.
[Part 1:295:1953; A 1955, 527] + [1:320:1955] + [11:320:1955] + [13:320:1955]—(NRS A 1957, 771; 1961, 304; 1965, 969; 1969, 790; 1971, 2207; 1977, 1015; 1981, 1370; 1985, 1609; 1989, 1897; 1997, 1226; 2005, 1182)

NRS 223.060 Resignation. The Governor shall transmit his resignation to the Legislature, if in session, and if not in session he shall then transmit it to the Secretary of State.
[Part 34:108:1866; B § 2632; BH § 1669; C § 1815; RL § 2798; NCL § 4798]

NRS 223.080 When President Pro Tempore of Senate, Speaker of Assembly or Secretary of State act as Governor.

1. If, during the vacancy in the Office of the Governor, the Lieutenant Governor shall die, be impeached, be displaced, resign, or become incapable of performing the duties of his office, or be absent from the State, the President Pro Tempore of the Senate shall act as Governor until the vacancy shall be filled or the disability shall cease.
2. In case of the inability of the President Pro Tempore of the Senate to act as Governor in the event of a vacancy in the Office of Lieutenant Governor, the Speaker of the Assembly shall be called upon to serve until the vacancy shall be filled. If the Speaker of the Assembly is ineligible or unable to act, the Secretary of State shall be next in line of succession.
3. To effect the purposes of this section, the President Pro Tempore of the Senate and the Speaker of the Assembly shall each be deemed to hold their respective offices until their successors shall have been elected and qualified.
[44:108:1866; A 1947, 11; 1949, 39; 1943 NCL § 4808]

NRS 223.085 Employment of staff: Salaries and benefits; rules and policies.

1. The Governor may, within the limits of available money, employ such persons as he deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Agency for Nuclear Projects, the Office of Science, Innovation and Technology and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and serve at the pleasure of the Governor.

2. The Governor shall:

- (a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and
- (b) Adopt such rules and policies as he deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

(Added to NRS by 1967, 1488; A 1971, 1423; 1981, 1271; 1997, 616; 1999, 3278; 2001, 2284)

NRS 223.121 Portrait of Governor.

1. The Director may, upon the election of each new Governor, enter into a contract with an artist for the purpose of procuring a portrait of that Governor for display in the Capitol Building.
2. The portrait must be painted in oil colors and appropriately framed. The painting and framing must be done in the same manner, style and size as the portraits of former Governors of the State displayed in the Capitol Building.
3. The contract price must not exceed the appropriation made for this purpose to the Account for the Governor's Portrait in the State General Fund. The contract price must include the cost of the portrait and the frame.
4. The portrait and frame are subject to the approval of the Governor.
5. Upon delivery of the approved, framed portrait to the Secretary of State and its acceptance by the Director, the State Controller shall draw his warrant in an amount equal to the contract price and the State Treasurer shall pay the warrant from

Assembly Bill 660: Revises provisions governing employees of office of governor. (BDR 18-1466)

Pete Ernaut, Executive Director for the Office of the Governor, testified A.B. 660 contained a request to alter the status of the employees in the Governor's office from an unclassified to a non-classified status. He asserted the status change was a fair and efficient management tool that would allow the Executive branch flexibility to administer its own staff.

Mr. Ernaut explained the Executive branch of government was the only branch whose employees did not have non-classified status. Although the non-classified status may not apply to every employee within the Executive branch he thought the Office of the Governor, which employed 23 people, would appropriately designate its staff as non-classified.

For example, Mr. Ernaut explained the Governor's Office was budgeted for 23 staff positions, excluding the Governor himself. Of those 23 staff positions, about 12 positions were clerical. He then disclosed the Governor's office had been re-organized to allow the Deputy Chief-of-Staff to oversee administrative duties and constituent services, while the Senior Policy Advisor had oversight concerning legislative affairs and public policy. As a result, the office of the Governor exhibited a need for more professional management level staff and less clerical staff.

Mr. Ernaut clarified the difference between a non-classified employee and a classified employee. He said the Governor's office had no ability to pay overtime to an employee, regardless of whether the position was clerical in nature or not. However Legislative Counsel Bureau employees were paid for working overtime, the Governor's staff was required to work overtime uncompensated.

Currently, Mr. Ernaut disclosed the office had filled 18 out of the 23 budgeted staff positions. He declared the office did not intend to fill the remaining positions. Therefore, staff savings would amount to \$170,000. Even with salary adjustments to make some positions such as General Counsel more commensurate with like positions in the Office of the Attorney General, almost \$100,000 would still be saved.

Because the Legislature set the position titles, salary caps for each position, and determined the number of positions each agency could hire, Mr. Ernaut repeated his request for the committee to approve A.B. 660, which would grant the office the flexibility to manage its own staff.

Mr. Ernaut then explained the status change would be tantamount to a block grant. \$1.395 million would be allocated to the office in FY 2000 and the office would not be able to exceed that amount. However the office would be given the flexibility to choose where those funds should be allocated. The office would also determine the number of individuals it should hire and the appropriate salary levels. He stated those changes would also be a matter of public record.

Speaker Dini referred to page 2, line 1 through 7, which indicated the office would determine the salaries and benefits and then adopt the rules and policies deemed

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appropriate for hiring and employment rights. He thought the section needed explanation.

Mr. Ernaut clarified the core of the bill was presented in lines 1 through 7. The language basically called for the Governor to have the ability to administer his own staff and to hire people at salary and benefit levels according to his determination. Again, he repeated the changes made by the Governor would be publicly disclosed. Furthermore, the employees would still receive benefits like the state's retirement plan and the state's health plan. Those employees would be afforded benefits similar to those received from other non-classified employees in state service.

Speaker Dini asked if the Secretary of State and the State Treasurer were considering a similar request. He thought the Legislature would soon relinquish all oversight over the Executive branch.

Mr. Ernaut could only respond for the Office of the Governor and he re-directed his request for the alteration of status for employees in the Governor's office.

The Chair remarked the committee wished to relay a message to other Executive agencies that should A.B. 660 be passed, its scope would be limited to the Governor's office only.

Mr. Ernaut then stated the Governor believed the bill was an important measure for his office and although the office had an excellent relationship with the other Executive agencies, the request had been submitted for the Office of the Governor only.

Mr. Goldwater also queried if the Governor's Mansion staff was non-classified. Mr. Ernaut replied affirmatively.

The Chair then closed the hearing on A.B. 660 and addressed the next bill.

Assembly Bill 582: Makes

Assembly Bill 660: Revises provisions governing employees of office of governor. (BDR 18-1466)

Mr. Stevens explained A.B. 660 was the request from the Governor's Office to remove the unclassified status from the positions in the Governor's Office and place them in a "non-classified" status. The Governor would not be allowed to spend any more dollars, but would be allowed to set the salaries of his staff.

MR. MARVEL MOVED DO PASS ON A.B. 660.

MR. HETTRICK SECONDED THE MOTION.

MR. DINI MOVED TO AMEND THE MOTION TO ADD LANGUAGE THAT THE GOVERNOR'S OFFICE REPORT TO THE INTERIM FINANCE COMMITTEE (IFC) EVERY THREE MONTHS ON THE STATUS OF THE NEW PROGRAM AND TO LIMIT THE INCREASE THE GOVERNOR CAN GRANT AN EMPLOYEE TO 7.5 PERCENT DURING THE BIENNIUM.

VICE CHAIR EVANS SECONDED THE AMENDED MOTION.

DISCUSSION:

The Chair recognized Mr. Beers who asked if the provisions in the bill would provide salary increases for some positions and decreases for others. Mr. Dini responded some positions would receive increases and some positions would go away.

The Chair recognized Ms. Giunchigliani who said it was her understanding the amendment would include quarterly reports to IFC, the fact that any individual increase would not exceed 7.5 percent during the biennium, and the report to IFC would include the position name and amount of increase. She commented on the fact employees in the Governor's Office would be receiving salary increases when other state employees may not.

The Chair called for a vote on the amendment to amend A.B. 660.

THE MOTION CARRIED. ASSEMBLYMEN HETTRICK, CEGAVSKE, GIUNCHIGLIANI, AND MARVEL VOTED NO (ASSEMBLYMAN PRICE WAS NOT PRESENT FOR THE VOTE)

The Chair then called for a vote on the amended version of A.B. 660.

THE MOTION CARRIED UNANIMOUSLY. (ASSEMBLYMAN PRICE WAS NOT PRESENT FOR THE VOTE)

MINUTES OF THE

ASSEMBLY BILL 660: Revises provisions governing employees of office of governor.
(BDR 18-1466)

Senator Coffin reported he was awaiting a draft of language to change paragraph 1 of the bill and would abstain from the vote pending receipt of the changes. The committee members recalled a preference to return the bill to its first print without amendments included in the present draft.

SENATOR O'DONNELL MOVED TO AMEND ASSEMBLY BILL 660 TO RETURN IT TO ITS ORIGINAL FORM AND DO PASS AS AMENDED.

SENATOR RAWSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR COFFIN ABSTAINED FROM THE VOTE.)

* * * * *

There being no further business to come before the committee, Senator Raggio adjourned the meeting at 11:55 a.m.

RESPECTFULLY SUBMITTED:

STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

Request for Opinion No. 08-57C

In the Matter of
The Request for Opinion Concerning
The Conduct of BOB LOUX,
Executive Director,
Office of Nuclear Projects,
State of Nevada,

Subject.

DECLARATION

I, Jennifer Byers, declare that I am employed by Kelly Services, in which capacity I have performed fiscal and accounting services for the Agency for Nuclear Projects since September 22, 2008; that I retired from public service with the State of Nevada in May, 2007, after twenty-seven years; that my most recent position was Deputy Administrator/Administrative Service Officer IV with the Division of Forestry; that I performed fiscal functions and services throughout my career with the State of Nevada, and am familiar with the accounting standards, methods, forms, resources and database systems used by the State of Nevada; that I prepared the attached summary from records within the Agency and from the Nevada Executive Budget System (NEBS) reports, HR Data Warehouse reports, and from the Controller's Integrated Financial System.

Date: 10/23/08


Jennifer Byers

AGENCY FOR NUCLEAR PROJECTS
BIA 1005 LEG APPROVED BUDGET VERSUS ACTUAL SALARIES PAID BY POSITION

(Based on the log approved salaries for each person and actual salaries paid, balanced to the RFA Data Warehouse and ITS/DIAWN. Does not include fringe benefits; BIA 1005 LEG APPROVED BUDGET VERSUS ACTUAL SALARIES FIVE YEARS

PCN	Position	FY 2005		FY 2006		FY 2007		FY 2008		FY 2009		FY 2010			
		Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget		
0005	Robert Cox	107,590.11	104,487.00	108,703.52	(3,206.52)	105,587.00	113,851.20	77,064.20	103,461.00	132,188.00	28,737.00	16.31%	85,527.00	99,351.35	(13,824.35)
0006	Jason Lynch	88,920.35	65,576.00	90,661.34	(4,105.64)	88,308.00	93,992.80	(5,674.80)	109,255.56	123,731.56	16.32%	85,527.00	99,351.35	(13,824.35)	
0007	Joseph Strich	88,920.35	65,576.00	90,661.34	(4,105.64)	70,006.00	80,006.00	(9,994.00)	68,601.36	78,801.36	16.30%	87,800.00	28,169.32	59,630.68	
0010	Tuddy Steinfeld	70,491.40	68,634.00	71,889.84	(3,255.84)	70,006.00	74,464.00	(4,458.00)	66,601.36	71,801.36	16.30%	78,754.12	10,958.72	67,800.00	
0012	Paul Maser	55,217.00	55,217.00	56,321.00	(1,104.00)	56,321.00	59,804.00	(3,483.00)	54,543.00	59,665.28	(15,122.28)	16.23%	54,543.00	70,220.39	(15,677.39)
0004	Cathy Sack	67,518.88	65,739.00	66,852.24	(1,113.24)	67,054.00	71,323.20	(4,269.20)	64,942.00	64,542.00	-0.60%	64,942.00	64,942.00	0.00%	
0011	Verani														
Total Salaries		550,674.14	535,873.00	561,516.72	(25,643.72)	548,590.00	581,672.00	(33,082.00)	529,610.00	593,673.12	(63,953.12)	2.05%	525,620.00	486,891.95	42,728.05

NOTES: 1. Salaries do not reflect an adjustment for Bob Lewis going from employee/employer paid retirement to employer paid retirement effective 4/24/06 or for Tudy Sanford effective 6/23/02.

3. FY 09
EMPLOYER PAID RETIREMENT PROJECTIONS: 4/24/06 includes salaries paying off annual leave due to the retirement of Tudy Sanford. Projections include filling the position by January 12, 2009 pp 16.

2. FY 09
SALARY PROJECTIONS: 4/24/06 includes salaries paying off annual leave and sick leave due to the retirement of Cathy Sanford. Projections include filling the position by January 12, 2009 pp 16.

Standard 8770s. Position will not be filled. Admin Services will perform all fiscal duties.

Standard 8770s. Projections: PCN 0004 includes paying off annual leave and sick leave due to the retirement of Cathy Sanford. Projections include filling the position by January 12, 2009 pp 16.

Salary Analysis: FY 2006-2009 Leg Apprv vs Actuals

Nuclear Projects Office
Salary Changes FY 2007 to Present

PCN Position	FY 2006 Budget	FY 2006 Actual	FY 2007 Budget	%Change vs. '06	FY 2007 Actual	%Change vs. '06	FY 2008 Budget	%Change vs. '07	FY 2008 Actual	Act. Vs. Budget	%Change vs. '07	FY 2009 Budget	Employer Paid Hourly Rate	FY 2009 Actual	Act. Vs. Budget	%Change vs. '08
0005 Robert Loux	104,497.00	120,537.42	108,677.00	4.00%	126,355.25	4.00%	114,088.00	4.98%	145,717.78	(31,629.78)	16.24%	114,088.00	49.56	151,541.89	(37,453.89)	4.00%
0006 Susan Lynch	95,126.00	99,637.23	98,931.00	4.00%	103,606.21	3.98%	94,294.00	-4.69%	120,441.62	(26,147.62)	16.25%	94,294.00	40.96	125,252.84	(30,958.84)	3.99%
0007 Joseph Strohn	95,126.00	99,637.23	98,931.00	4.00%	103,606.21	3.98%	94,294.00	-4.69%	120,441.62	(26,147.62)	16.23%	94,294.00	32.47	113,626.78	(38,876.78)	19.02%
0010 Trudy Stanford	75,142.00	78,989.41	78,148.00	4.00%	82,132.47	3.98%	74,750.00	-4.35%	95,464.71	(20,714.71)	16.23%	74,750.00	32.47	99,263.05	(24,513.05)	3.98%
0012 Paul Maser	75,142.00	78,989.41	78,428.00	4.00%	82,132.47	3.98%	74,750.00	-4.69%	95,464.71	(20,714.71)	16.23%	74,750.00	26.12	79,857.03	(19,723.03)	3.99%
0004 Cathy Sack	60,670.00	63,549.42	60,097.00	4.00%	65,073.05	3.97%	60,134.00	-4.70%	76,795.34	(16,661.34)	16.23%	60,134.00	31.10	-	71,598.00	0.00%
0011 Vacant	72,231.00	75,662.81	75,120.00	4.00%	-	-	71,598.00	-4.69%	-	71,598.00	0.00%	71,598.00	-	-	71,598.00	0.00%
Total Salaries					562,905.64		583,908.00		654,325.79	(70,417.79)	16.24%	583,908.00		694,794.41	(110,886.41)	6.18%